

VDH SHIFT Stakeholder Advisory Committee Meeting

October 31, 2013 | 10 a.m. – 2:00 p.m.
Department of Forestry, Charlottesville, Virginia

Meeting #5 Summary

Facilitated by the Institute for Environmental Negotiation

Executive Summary

The SHIFT Stakeholder Advisory Committee has been tasked by the Virginia Department of Health with producing a report of recommendations on how to maximize private sector participation in the onsite sewage program while providing adequate oversight to protect public health and the environment. The committee met for the first time in July 2013. This document is a summary of the fifth SHIFT Stakeholder Advisory Committee meeting, held in late October. During this meeting, participants discussed draft recommendations, reviewed the results of a survey-based consensus document, and tested for consensus on a number of proposed recommendations. The committee reached consensus on six recommendations and discussed the potential for a number of other recommendations.

As of the date of this draft meeting summary, a decision had not been made on whether to hold another in-person meeting of the SHIFT Stakeholder Advisory Committee.

Welcome Back & Introductions

Forty-six people met at the Department of Forestry Building in Charlottesville, Virginia, on October 31th for a VDH Safety and Health in Facilitating a Transition (SHIFT) Stakeholder Advisory Committee meeting. Tanya Denckla Cobb, Frank Dukes, and Kelly Wilder from the Institute for Environmental Negotiation (IEN) at the University of Virginia facilitated the meeting. This was the fifth in a series intended to lead to consensus recommendations concerning the future of the onsite septic program in Virginia, with the hopes of maximizing private sector involvement in the new program to the greatest extent possible.

After welcoming group members to the meeting and providing time for meeting participants to introduce themselves, Tanya took a few minutes to review the SHIFT process. She explained that the SHIFT Stakeholder Advisory Committee has gone through a traditional consensus building process, including identifying key issues of importance to the stakeholders, and developing and narrowing ideas for possible recommendations. IEN worked with committee members over the last month to further narrow the proposals to 31 draft recommendations, then conducted an initial online test for consensus on these draft proposals. The purpose of this meeting, therefore, is to first build consensus on proposals that the initial consensus test

indicated were strongly supported, and then to move forward with building consensus on the remaining draft proposals.

Frank then reviewed the ground rules set by the committee during the first SHIFT meeting. He mentioned the importance of honoring the time people have spent on this initiative, both during and outside of the group meetings. He urged the group to assume that committee members are participating in good faith, and noted that groups that are able to do so are usually more successful in building consensus. Finally, Frank reflected on comments that IEN has received about the SHIFT goals, noting that the goal is not about “privatization” but is more accurately about identifying what the private sector does best and finding ways to help it do more of this work, and also identifying what the public sector does best and finding ways to help it do more of this.

Tanya then asked that everybody check to ensure that they have all the latest meeting handouts, including the meeting agenda, the public comment print-outs, and the survey results handout, and introduced the agenda, which included time for:

- Welcome Back & Introductions
- Building Consensus on Proposals with Greatest Support
- Building Consensus on Other Key Issues
- Public Comment
- Meeting Wrap-up

Building Consensus on Proposals with Greatest Support

The majority of the meeting time was spent on discussing and testing for consensus on the draft recommendations that were most supported in the committee survey. To ensure that the committee would have enough time to discuss each widely-supported proposal, Tanya explained that the group would use a “Rapid Needs Assessment” process to provide a structure for approaching each discussion. The rapid needs assessment worked by allotting ten minutes per proposal. First, committee members who were unable to live with the proposal would express their concerns and share how the proposal could be changed to enable them to live with it. Then the group would be asked how it might address the expressed concerns. If no consensus was reached in the ten-minute allotment, the group would put that proposal aside and move on to the next one.

Tanya announced that there were four proposals on which, according to the online test for consensus, the committee had already reached consensus. Additionally, there were six proposals on which that the group was close to reaching consensus, meaning that only three or fewer committee members were unable to live with the proposal. As detailed below, the rapid needs assessment focused on these ten proposals.

Tanya then explained that, although ten proposals were close to consensus, there also were many others that were not close to consensus. She noted that many of the barriers to consensus on these remaining proposals reflect deeply held values, and that value-based conflicts are known to be the hardest types of conflicts to resolve and need the most work. She acknowledged that, because of this, there are some issues that the group might not be able to resolve. Because the IEN cannot make people agree, the goal of reaching consensus recommendations would require committee members to work together to find solutions and to identify where the barriers remain so that more work may be done in the future. Tanya further clarified that if the group detoured into conversations that had been previously addressed during the process, the facilitators might intervene and urge the group to move onto new ideas.

Before starting, she gave the floor to the VDH to update the committee on its internal discussions. Dwayne Roadcap explained that the VDH has been going through its own parallel internal discussions with staff from all Health Districts, to discuss ideas and options developed by the SHIFT committee. Based on the first four SHIFT meetings, the VDH has decided that there are two specific changes it can make to address stakeholder concerns, regardless of the outcome of the SHIFT process. First, to level the playing field and eliminate concerns about different standards for the private sector, the VDH now plans to start the process of equalizing work product expectations. Second, to encourage people to use the private sector where possible, the VDH is prepared to develop a consistent policy for local Health Districts to disclose the limitations of their staff capacity and to encourage the use of the private sector. The details of both policies have yet to be worked out, and the VDH will welcome input. One member suggested that VDH work closely with DPOR to ensure that alignment of the work product expectations will not lead to a lowering of professional standards.

The following rubric was used during the tests for consensus online and during the meeting:

- 3 – Fully support; able to live with decisions; will not actively work against them outside the process.
- 2 – May have some questions/concerns but still able to live with the decisions reached; will not actively work against them outside the process.
- 1 – Too many questions/concerns; not able to live with or support the full proposal/package; the group needs more discussion.

Rapid Needs Assessment

Online Proposal 20 – Review Documentation: All Level 1 and 2 reviews will be documented with standard VDH forms. Copies of all official documents shall be sent to the OSE/PE after the review has been completed.

Consensus reached

Concerns:

One committee member indicated that he gave the proposal a “1” on the online consensus test, but he clarified that he was not actually opposed to the proposal and retracted his “1.”

Test for consensus:

Since no further discussion was needed, Tanya moved to test for consensus. The committee reached a strong consensus for Proposal 17, with a tally of nineteen 3’s, one 2, zero 1’s, and one abstention.

Online Proposal 3 – Emergency Repairs: VDH must be able to provide soil evaluation/design in the event of an emergency, when emergency repairs are needed.

No consensus reached

Concerns:

Two committee members gave this proposal a 1 online. Both of these members indicated that they wanted further clarity about what constitutes an “emergency,” and several other members expressed the same concern.

Discussion:

In order to clarify what constitutes an emergency, other members of the group offered that the standard definition for emergency in VDH policy be applied. These criteria were described as:

- A system malfunction that endangers public health.
- A system failure where sewage is surfacing or where the system is backing up.
- A situation that could lead to pollution of groundwater.

After clarifying what potential criteria could be used for defining an emergency, Tanya asked the group if the assembled criteria were sufficient to raise the concerned member’s votes from a 1 to a 2. They expressed that they were not sufficient for the following reasons:

- There is a possibility that this proposal will force a permit for construction or repair without considering all the variables (because many times the problem would involve an operation and not a design problem).
- Not all repairs should qualify for free emergency service.
- There is a lack of clarity about the responsibility of the VDH to handle repairs immediately, without considering the capacity of the private sector to accommodate the repairs.

- The proposal didn't distinguish between systems that are failing because they are past their life expectancy and systems that are failing for other reasons.

Other committee members expressed surprise at these concerns, as the private sector handles these problems anyway, and the proposal simply means that the VDH must retain the capacity to do the repairs, not that they must do the work.

By the end of ten minutes, there remained a number of concerns about the proposal and no consensus was reached, although there was a sense that the committee might not be far from consensus if sufficient qualifiers could be attached to the proposal. It was suggested that members would discuss the language of the proposal at a later time, and could then reconsider testing for consensus on it.

Online Proposal 18 – Work Product Expectations: VDH should implement a policy as soon as possible that requires VDH and private sector work to meet the same work product expectations, including:

- a. Cover page**
- b. Certification statement**
- c. Scaled drawings and site plans**
- d. Labeling of license**
- e. Review of work**
- f. Pump curves and specifying name brands, or not doing pump systems**
- g. Substituted system**
- h. Disclosures and disclaimers**
- i. Level 1 and Level 2 reviews (see below for more)**
- j. Alternative designs**
- k. Survey plat**

Consensus reached

Concerns:

Two committee members gave this proposal a 1 online. One of these members expressed that he supports the main idea of aligning work products, but believed that the SHIFT committee probably shouldn't get into the specifics of what the VDH could and should align. The other member was concerned that the cost of implementing this proposal could be extremely burdensome on the VDH, and agreed that as long as the work expectations are the same, VDH should have the freedom to specify in detail how to handle the specific alignments.

Discussion:

A few committee members expressed that this proposal is essential because it is desirable for the VDH to have the same work expectations as professionals in the private sector. It was mentioned that the specific alignments described in items a to k are only a guide for what the VDH could implement, and that perhaps they should be removed from this proposal altogether.

Test for consensus:

The committee voted on an amended version of this proposal, with items a to k removed, and reached a strong consensus for Proposal 15, with a tally of twenty-two 3's and one 2.

Online Proposal 29 – Other Funds: The VDH should explore the potential use of other funds to assist low-income citizens, such as the Department of Community Development's Indoor Plumbing Fund, which may also be available to assist people with new systems.

No Consensus reached

Concerns:

Two people gave this proposal a 1 online. One of these members retracted his objection, but expressed that this proposal isn't truly something that involves the Health Department. The other commented that the proposal has no restrictions against using the funds to support development in areas that aren't truly affordable.

Discussion:

The committee discussed options for changing the proposal to resolve the concerns expressed. The following ideas and questions were shared:

- Would the proposal be better if it considered making funds available only for repairs in existing areas? This idea was met with some support.
- It's important that the proposal clearly state what "people" and what "work" it is talking about.
- One member expressed that if a repair is defined as work on an existing system, there are nuances that could prevent certain important work from being done. For example, repairing an outhouse system with a septic system is beneficial, but could be considered a new installation instead of a repair, which would then not qualify for this fund. One committee member responded, saying that he has no problem with offering repairs on existing housing.
- Perhaps the fund should be available only people that qualify for low-income assistance ("Section 8")?
- One member asked about why it would not be okay to use public money for new development, when money from a private fund would be accepted.
- New language was suggested, changing the end of the recommendation to say "to assist people with new septic systems, repairs to existing systems, or upgrades to existing systems not associated with new building construction."
- A committee member suggested VDH return to a prior practice of risk-based assistance.

Test for Consensus:

The proposal language was amended to read:

"Other Funds: The VDH should explore the potential use of other funds to assist low-income citizens, such as the Department of Community Development's Indoor Plumbing Fund, which may also be available to assist people with repairs or required upgrades to existing residences."

After settling on new language for the proposal, the group tested for consensus. Two members were unable to support the proposal, and consensus was not reached on Proposal 29. The members who gave the proposal a 1 indicated that the language still was not adequately clear and that the newly phrased proposal wouldn't provide funds to help impoverished people with building their new systems. He thought that there was a reason for including that clause in the proposal originally, and disagreed with taking it out.

One member voiced that this proposal is not relevant to the SHIFT group at all, and moved to table the discussion. A number of other members seconded this sentiment. In response, Tanya explained that this proposal was important to some people, and that, although the committee needed to move to the next proposal, members were welcome to talk about new language options during lunch and suggest changes to the group later in the meeting. Otherwise, the proposal would be dismissed.

Online Proposal 22 – Internal Policy: The VDH policy (GMP 51) must be revised to reflect the new proposed model.

Consensus reached

Concerns:

Three members gave this proposal a 1 online. However, all three retracted their concerns.

Test for consensus:

Since no further discussion was needed, the group moved to test for consensus. The committee reached a strong consensus for Proposal 22, with twenty-two 3's and one 2.

Online Proposal 10a – Encouraging Options: VDH should implement a statewide policy as soon as possible that applicants be encouraged to use the private sector for the above construction services. Possible strategies: a. Threshold Strategy: Site evaluations and designs for all systems with an estimated volume of >1,000 gallons per day will be done by the private sector.

Consensus to drop the proposal

Concerns:

Three members gave this proposal a 1 online. One member retracted his objection. Another member expressed that the proposal language needs to be made more specific. The last objecting member reported that his constituency was not comfortable with completely eliminating the option of being able to use VDH.

After hearing the concerns, one member made a point of clarification stating that this proposal is not relevant because OSEs cannot handle work over 1,000 gallons a day. With that clarification, the group voted unanimously to drop the recommendation.

Online Proposal 2 – Regulatory Oversight: VDH must provide regulatory oversight, which includes all duties that do not require a license. More specifically, VDH will conduct

inspections, manage policy, draft and issue operating permits, maintain and manage records and data.

Consensus reached

Concerns:

No objections were expressed online.

Test for consensus:

Since no further discussion was needed, the group moved to test for consensus. The committee reached a strong consensus reached for Proposal 2 with twenty 3's and two 2's.

Online Proposal 10b – Encouraging Options: VDH should implement a statewide policy as soon as possible that applicants be encouraged to use the private sector for the above construction services. Possible strategies: b. Educational/Disclosure Strategy: VDH should provide educational materials to applicants outlining the limits of VDH services and encourage applicants to obtain private services.

Consensus reached

Concerns:

No objections were expressed online.

Test for consensus:

Since no further discussion was needed, the group moved to test for consensus. The committee reached a strong consensus for Proposal 10b, with twenty-one 3's and one 2.

Online Proposal 10c – Encouraging Options: VDH should implement a statewide policy as soon as possible that applicants be encouraged to use the private sector for the above construction services. Possible strategies: c. Service Provider Strategy: VDH should provide/make available to consumers the names and contact information of private sector providers willing to provide work in that Health District (through a mechanism such as website or roster containing data from DPOR).

Consensus reached

Concerns:

No concerns were expressed online.

Discussion:

The following ideas and concerns were expressed by members of the committee during the time for discussion:

- How will the guidelines for this list be made and how will the list be updated?
- There needs to be more clarity. Are these proposed lists going to exclude the public sector folks who work for VDH?
 - Answer: It will only list private sector.

- The private sector should handle the list. It would be great to be able to refer people to a website with the list, but the public sector should not be responsible for managing the list.

Test for consensus:

The committee reached a strong consensus for Proposal 10c with nineteen 3's and five 2's.

Online Proposal 21 – Reporting: The VDH must have clear/transparent reporting. The VDH QA/QC must be revised to address the newly proposed model.

Consensus reached

Concerns:

No concerns were expressed in the survey.

Discussion:

The following ideas and concerns were expressed by members of the committee during the time for discussion:

- What is the model that we're using for this recommendation?
- If we change the model substantially, this recommendation will have to change.
 - Whatever changes to the septic program are made, the policy needs to reflect it.
- Suggested new language that the second sentence be revised to "for any changes to existing practices, the VDH QA/QC must be revised to address the newly proposed model."

Test for consensus:

Using the new proposed language, the committee reached a strong consensus for Proposal 21 with eighteen 3's and four 2's. The final proposal reads:

- **Reporting: The VDH must have clear/transparent reporting. For any changes to existing practices, the VDH QA/QC must be revised to address the newly proposed model.**

Building Consensus on Other Key Issues

After addressing the proposals with the greatest support, Tanya proposed opening up the meeting time to requests for discussion about proposals in need of a 10-minute rapid needs assessment. One committee member suggested discussing Online Proposal 11.

Online Proposal 11 – "Once Touched" Strategy – Mandated OR Encouraged:

- a. Mandated Strategy: If a site has ever had a site evaluation/design by the private sector, VDH should no longer accept a bare application for that site and should require that applicant to submit private sector work.
- b. Encouraged Strategy: For lots previously privately evaluated, applicants should be encouraged to contact the original private entity to discuss advantages and

disadvantages of utilizing them to produce the design. Applicants would be informed of their choice to (1) use the original information on file and the original or another private evaluator or (2) use the VDH, while understanding that the system designed by someone other than the original evaluator could be substantially different from what was preliminarily proposed. This places no mandate on applicants but helps them understand their options, educates them on the process, and encourages them to seek the advice of original private sector entity.

- c. Corollary to the “Once Touched” Encouraged Strategy: If VDH produces designs for new construction permits, it must conduct and fully document its own independent soil/site evaluation as the basis for its design. VDH personnel would be prohibited from using private sector evaluations as the sole basis for producing designs for new construction permits. (i) This would not prohibit VDH from using the exact location as the private sector proposed for the system. However, VDH would make it clear to their staff that no responsibility for the functioning of any system designed by VDH in a site previously proposed by a private sector evaluator will rest with the private sector evaluator. (ii) This provision is not intended to prohibit VDH from performing proper oversight. VDH staff should be encouraged to file a complaint with DPOR if the findings of their independent evaluation yield significantly different results from the private sector.

Discussion:

The following ideas, concerns, and questions were expressed during the ten-minute discussion time allotted for Proposal 11.

- We shouldn’t restrict people to using only the “original” private entity. For the most part, people simply choose to use the same provider. But times change and things happen so people should be able to pick another.
- Perhaps it would be okay to remove the “original” word but to keep the “private” part of the proposal. Change the language from “the original private entity” to “a private entity.”
- A bare application is one that is submitted without privately provided soil evaluation data. If there is a permit request for an area with soil evaluation data, then it shouldn’t be treated as a bare application. Need to add “certification letter” considerations in the recommendation somewhere.
 - Part of the question here is about how to define a bare application. In order for the request to not be treated as a bare application, you need to have the paperwork that matches what you’re asking for exactly.
- Why are we creating a scenario where the state is becoming liable for a project based on someone else’s work? People with a license are responsible for their own actions, regardless of their employers. It would be best to take out part two of the recommendation.
- Strike part two and take out “the original information on file and.”
- Clarified that we need to do a, b, or c – but not all three – because they conflict with each other.
- The proposal needs to be worded in a language that can be understood.

- How can a designer be sure that the VDH is or is not using the data provided by the private sector? The certification letter is considered supporting documentation, so if a property has a certification letter it is considered “touched.”
- Keep a, strike b, and keep c.
- Soil evaluation and certification letters done by the private sector and accepted by the government could be on file. If someone comes into the department with the certification letter and asks to turn it into a construction permit, they can, because the letter itself is replaced in order to become part of the design work.
- Parts a and c together could make a good proposal.
- Part c should be removed.
- This proposal needs to contain consideration for repairs vs. new systems.
- It’s important to preserve choice. Part a should not be supported as a mandate, but the encouraged strategy proposed in b could be OK.
- Has the Home Builders Association had any problems in the areas where this type of program has been working in the past year?
 - Answer: There haven’t been any problems.
- Is this issue a problem for the people in the business?
 - Answer: Yes this is a problem.
- In terms of liability, soil, design, and usage are what make a system work. If someone does the design for a soil assessment completed by someone else, but in a different way than the original worker would have done it, the original is liable for the soil, but how could he be liable for the outcome of a system he didn’t design?
- It is best practice that if you initially go with the private sector you should stick with that. But it cannot and should not be mandated.
- The mandated strategy can’t be supported, but an encouraged strategy could be.
- Tanya asked if it would be worth changing b (the encouraged strategy) and then testing for consensus on that?
- Members wondered why this recommendation is so complicated. Maybe this proposal should just be removed?
- A proposal was made to eliminate the encouraged and mandated categories and make it all fall under a slightly-revised “once touched” strategy:
 - **For lots previously privately evaluated, applicants should be encouraged to contact a private entity to discuss advantages and disadvantages of utilizing them to produce the design. Applicants would be informed of their choice to (1) use the original information on file and the original or another private evaluator or (2) use the VDH, while understanding that the system designed by someone other than the original evaluator could be substantially different from what was preliminarily proposed. This places no mandate on applicants but helps them understand their options, educates them on the process, and encourages them to seek advice of a private sector entity.**

Test for consensus:

With the new language above set, the group tested for consensus on 11b. No consensus was reached for Proposal 11b with seven 3's, eight 2's, and six 1's.

It was mentioned that the principle behind the "once touched" strategy seems to be widely supported and that there might be a way forward on this proposal, pending revised language and discussion of details.

Online Proposal 16 – Online System: To enhance the state's record keeping and tracking capacity, VDH should develop an online application system as soon as possible, which may include the ability for the private sector to bid on work. (This might require the ability to accept electronic seals, hence legislative action.) This online system would have two primary functions:

- a. **Consumer Service Strategy:** Make applications available online and allow/encourage the private sector to contact applicants and offer their services, as well as encourage applicants to contact the private sector (per Educational/Disclosure Strategy above). After some period (e.g., 3 to 5 days), if the owner does not update the application to indicate that a private sector practitioner has been retained, the local Health Department would process the application as a bare application (i.e., VDH would be the "provider of last resort").
- b. **Free Market Strategy for Backlogs:** The site would show when a backlog exists, which would provide business leads to the private sector who may be able to provide services more quickly than the local Health Department. The Code should be amended to eliminate the mandate that the agency pay for the private sector providers in the event of a backlog.

No consensus test, but committee input to be used by VDH

Discussion:

After the discussion on Proposal 11, Dwayne Roadcap explained that the Health Department is looking at what information the agency can put on the website to make the program more transparent. The VDH restaurant program has a popular online site that provides data to the public. All the onsite septic data submitted to VDH is already available through FOIA requests, so an online application system would simply make the data more easily available. The VDH has long considered making applications available online, and the idea is that an online system could also make it easier for service providers and homeowners to find one another. A question remains around exactly what information people would like to see on a VDH website.

To consider this question, the group began a rapid needs assessment for Proposal 16, which addresses the creation of an online system for the onsite septic industry work.

The following ideas, concerns, and questions were expressed during the ten-minute discussion time allotted for Proposal 16:

- Some members were uncomfortable with the state making people's personal information available online so that an installer can make solicitation calls to people

who need work done. There is concern that people with their information listed would be solicited. It was noted that some of this information is in the newspaper, so this happens on a small scale already.

- In the Cumberland Plateau, applications and permits can already be processed by email rather than mail, which simplifies the process.
- Question for VDH – Has there been a mandate that VDH has to digitize its data?
 - Answer: There hasn't been a mandate.
- Frank asked if the VDH could say more about their rationale.
 - Response: VDH collects a lot of data and would like to share it, which also fits with current data management efforts at the department. Submitting permits electronically makes information sharing easier and faster.
- How would the cost of providing this information be managed?
- The concept of making available work visible to OSEs is a good one because it provides flexibility. There should be the ability to provide this data while protecting personal information – we shouldn't discard this idea.
- Online data entry by those applying for and preparing permits would save on VDH resources and time.

After ten minutes of discussion, the committee decided not to test for consensus. The VDH, however, will consider the ideas and views expressed by the committee if it decides to pursue developing the proposed online system.

At the recommendation of a committee member, the committee then began a rapid needs assessment for Online Proposal 8, which addresses the possibility of implementing a statewide policy similar to the “Hanover/Chickahominy Policy.”

Online Proposal 8 – Policy Target Strategy (with Exemptions below): VDH should adopt a policy equivalent to the “Hanover/Chickahominy Policy” and apply it uniformly and statewide. This policy aims for a minimum of 70% private sector and 30% VDH provided onsite septic soil evaluation/design work. The 30% should be reserved primarily for low-income (means-tested) and repair situations. VDH should be the provider of direct delivery of new construction services as a last resort.

Discussion:

The following ideas, concerns, and questions were expressed during the ten-minute discussion time allotted for Proposal 8:

- The Chickahominy policy established that if you want work done by the public sector, you “take a number and wait for your number to be called.” In the meantime, you are advised to seek private sector work. It's not a mandate, but it provides a pathway that leads to greater use of the private sector.
- This is a bad model because it establishes a “private does this much and public does this much” system. It would be better to have 100% private work, with certain exceptions (poverty, repairs, etc.).

- A member clarified that the policy in the Chickahominy District is different from what is being described here. That district instituted the policy to respond to a backlog, and they told people when they might get their case handled and said to try the private sector. However, they couldn't force the applicants to use the private sector.
- A member asked if this policy was effective in remedying the experienced backlog?
 - It helped, but it would be difficult to say how effective it would be in other districts.
- VACo cannot support this proposal because it is statewide and because there are many local differences in the state. The proposal needs to be more flexible to accommodate the differences between the many districts.
- In the Eastern Shore, if a customer brings in a job, regardless of who has worked on it in the past, they bring it to the Health Department. If it's a standard project, the public sector handles it. If it's an alternative project, it's sent to the private sector. The customer, however, still has the choice to use the private sector. There have been no problems with this policy.
- The conflict of interest is still the main concern because the regulator is still involved in the provision of services. We keep talking about provision for low income, but we haven't even defined affordability.
- One member expressed heartburn with reserving the Health Department for low-income work, which is like saying "we want the paying customers and you can have the people that can't pay."

After ten minutes of discussion, Tanya asked if the committee had any direct recommendations or requests for this proposal, advising that if not, the group should move on to another topic. In the absence of any new recommendations or requests, the committee moved into a more general wrap-up discussion about the SHIFT process and its goals.

Meeting Wrap-up Discussion

- A member expressed that if the Health Department won't speak up for its own interests, the committee can't do it. The way things stand, members will need to depend on DPOR and the General Assembly to remedy many of the problems that have arisen.
- Tanya asked if there is something else the group would like to talk about that could contribute to the charge.
- A member noted that it seems like people get more detailed work when they go to the private sector.
- Tanya asked whether the group wanted to turn to Proposal 30, which seems to address these concerns.
- A member asked if it's a realistic goal to transition to 100% private sector evaluation and design at some mile marker. If so, we should work on what that mile marker is before talking about more details.

- HBAV doesn't like the 70%/30% model. When there is a demand for services, people seem to move toward using the private sector. When there's no building pressure, the VDH provides more services.
- Two members spoke about the history of the "Chickahominy policy" and other elements of the current model, which were created in the housing boom, which has now busted. There are now vacancies at local Health Departments, and students aren't entering the soil sciences like they were before. It doesn't seem like it's in the public interest for VDH to spend public money to reduce the amount of work available to the private market.
- A member expressed confusion with the process and a need for the agency to take responsibility for what's happening so that time is not being wasted. It feels like the group is no longer working on what it was convened to work on.
- Frank referred back to an earlier question and asked whether there are problems with the idea that 100% of work, with some undetermined objections, could be done by the private sector.
 - HBAV would disagree with this.
 - VACo does not support mandating 100 percent of the work be done by the private sector. With the huge differences between regions of the state, VACo believes it is critical that no statewide targets or percentage goals be set up but rather that each region is given flexibility to choose whether greater private sector participation works for their region and to maintain the option for direct services provided by the VDH.
- A member asked how many other states have a health department that is as involved as the VDH is.
 - Dwayne said that would be a better question for Dave Lentz. It's hard to find another model similar to that in Virginia. From conversations with other state regulators, it seems that VA is actually quite liberal about what kinds of designs are accepted.
- Another member asked how many states have a fee structure that recovers all costs.

Tanya concluded the discussion by saying that this group seems to agree that increasing private sector involvement is a good goal but hasn't yet found a clear way to achieve this goal.

Public Comment

Three people signed up for an opportunity to speak during the public comment section of the meeting. They shared the following comments with the group:

- Don Alexander expressed an opinion that when the GA created the AOSE program, the goal was to reduce backlog, not necessarily to turn the program over to the private sector.
- Sandra Gentry signed up to talk as a member of the public rather than as a committee member, in order to relay comments she was hearing from her constituency, as distinct from her own views. She explained that when the committee first started the process,

she began to reach out to other installers in the state to better understand what installers think about the goal to increasing private sector involvement. The installers from throughout the state that Sandra spoke with shared that since the institution of the AOSE program, they believe that problems within the onsite septic program have increased, for a number of reasons. These installers are concerned about a lack of professionalism from people who do the design work. Prior to the institution of the AOSE program, there was a perception that the VDH was a responsible agency that was looking out for the public interest of Virginia. Much of this process is about fixing things that exist in the system. As the installer representative, Sandra felt obligated to communicate that the installers she spoke with don't think the current program is working and that it needs to be fixed. Consequently, they can't support moving to 100% private involvement. They don't believe that would be in the best interest of the industry or Virginia, and they want the VDH to stay in the business. Sandra came here as a committee member to find a way to head in the right direction, but her constituency currently doesn't believe this direction should be toward 100% private sector involvement.

- David Hogan expressed during his public comment that the proposal to decrease the VDH fees for non-bare application work caught his interest. That would be a big incentive to utilize the private sector and seems like a good focus point for the committee.

After the public comment time, Frank explained that there remains a lot of potential for future development on this conversation, but maybe not within this process. He suggested that it doesn't seem to make sense to return to talk about proposals that already are strongly opposed, but that IEN is happy to facilitate another meeting if progress is being made. Frank also brought up the possibility of the VDH presenting a proposal to the committee. He said he wanted to respect committee members' time, and asked if the committee thought it would be worthwhile for this group to meet as planned for SHIFT meeting 6 on November 21. A few members indicated that they did not think another meeting would be productive. Others, however, expressed that as long as people wanted to meet and talk, more time together could result in progress.

IEN asked members to continue to hold November 21 for a potential meeting date, pending further conversations with committee members and the VDH. Tanya and Frank then closed the meeting and thanked everyone for their time.

Stakeholder Advisory Committee Participants

Tony Bible – AOSE
Jim Bowles – VDH Office of Environmental Health Services
Alan Brewer – Loudoun County Government
Jimmy Bundick – Bundick Well and Pump CO., VA Well Water Assoc. VP.
Tyler Craddock – VA Manufactured and Modular Housing Association
Vincent Day – Sewage Handling and Disposal Advisory Committee
Charles Devine – Health Director of Lord Fairfax Health District
Ed Dunn – Virginia Environmental Health Association
John Ewing – Old Dominion Onsite, Inc.
Sandra Gentry – Manager of Gentry Septic Tank Service, Secretary of VOWRA
Dan Holmes – Piedmont Environmental Council
Scott Honaker – Environmental Health Manager of the Mt. Rogers Health District
Erik Johnston – Director of Government Affairs, Virginia Association of Counties
Dave Lentz – Regulatory Director at Infiltrator Systems Inc.
John Powell – Powell’s Plumbing, VOWRA BOD
Tim Reynolds – Reynolds-Clark Development
Bill Sledjeski – CPSS and an AOSE
Jim Slusser – AOSE, President of the VA Association of AOSes
Bill Timmins – Sewage Handling and Disposal Advisory Committee
Mike Toalson – CEO, Home Builders Association of Virginia
Jeff Walker – President Elect of VAPSS
Larry Wallace – Virginia State Program Manager of SERCAP
Neil Williamson – Governmental Affairs Director at Charlottesville Area Assoc. of Realtors

Resource Members

Allen Knapp – VDH
Dwayne Roadcap – VDH
Mark Courtney – DPOR
Trisha Henshaw – DPOR
Larry Getzler – DPB

IEN Facilitation Team

Tanya Denckla Cobb
Frank Dukes
Kelly Wilder
Jason Knickmeyer

Meeting Observers

Don Alexander
Tom Ashton – LPSS, VAPPS, RENS, VOWRA,
AOSE
Gary Coggins – VDH-New River Health District
Lance Gregory – VDH-OEHS
Todd Grubbs – VDH
Allen Gutshall – VDH-Central Shenandoah
Health District
David Hogan

Kemper Loyd – VDH-OEHS
Jack McClelland – VDH
John Milgrim – Fairfax County Health
Department
Danna Revis – VDH-OEHS
Steve Thomas – Virginia Tech
David Tiller – VDH
Idalina Walker

Meeting #5 Appendix I: SHIFT Charge, Committee Criteria, and Proposals

Discussion

The goal of the SHIFT is to develop consensus recommendations for increasing the use of the private sector statewide in onsite septic program work. Not all participants in the SHIFT process agreed that this goal of increasing private sector participation in the onsite septic program was a desirable goal, but nonetheless they did agree to participate in the process in good faith.

The SHIFT committee identified the following criteria for success.

The SHIFT to more private sector participation in onsite septic program should:

1. Protect Environmental and Public Health
2. Build Public Trust
3. Promote Shared Responsibilities and Ethics
4. Assure Affordable Access to Services For All
5. Be Funded Appropriately and Sustainably
6. Be Clear about Roles and Expectations
7. Be Supported with Enthusiasm by All (VDH and Private Sector)
8. Foster Public Awareness and Education

Significant concerns shared by many committee members are that a transition be encouraged if/when/where there is sufficient availability of private sector services as well as sufficient competition to prevent escalation of price. Committee members proposed a variety of possible measures that could be used to trigger a “SHIFT” to private sector work and (were/were not) able to develop the consensus recommendations listed in this document.

The Committee agreed on the following *overall principles*, but (was/was not) able to reach consensus on how the details of how these principles should be manifested:

1. **Regulatory Oversight:** VDH must provide regulatory oversight, which includes all duties that do not require a license. More specifically, VDH will conduct inspections, manage policy, draft and issue operating permits, maintain and manage records and data.
2. **Emergency Repairs:** VDH must be able to provide soil evaluation/design In the event of an emergency, when emergency repairs are needed.
3. **Affordability:** Safeguards must be in place to ensure onsite septic systems remain affordable to low to moderate-income people. The VDH should remain a provider of last resort.
4. **Availability and Competition:** Private sector involvement in the onsite septic program should be increased where there is sufficient availability and competition.